

REMARKS

The Office Action in the above-identified application has been carefully considered and this amendment has been presented to place this application in condition for allowance. Accordingly, reexamination and reconsideration of this application are respectfully requested.

Claims 1–11, 15-22 and 57 are in the present application. It is submitted that these claims were patentably distinct over the prior art cited by the Examiner, and that these claims were in full compliance with the requirements of 35 U.S.C. § 112. The changes to the claims, as presented herein, are not made for the purpose of patentability within the meaning of 35 U.S.C. sections 101, 102, 103 or 112. Rather, these changes are made simply for clarification and to round out the scope of protection to which Applicants are entitled. Claims 12-14 and 23-56 are canceled.

Applicants affirm the provisional election to prosecute the invention of Group 1, claims 1-22, made by phone on May 18, 2004. Non-elected claims 23-56 are canceled.

The drawings were objected to because of various informalities. In response, Applicants respectfully submit the attached replacement drawing sheets, containing Figures 69 and 106, which correct these figures in accordance with each of the Examiner's comments. Regarding Figure 106, the label —PRIOR ART—was added. In Figure 69, reference number “1130” was changed to —1134— to avoid a redundant reference number in Figure 72. This change was also effected in the specification. In Figure 69, reference number “1407” was deleted and references

—1123—, —mask ROM 1104—, and —non-volatile memory 1105— were added.

Accordingly, Applicants believe this objection has been overcome.

The Specification was objected to because of various informalities. Regarding the reference on page 163, lines 17-19 to elements 1104 and 1105, this has been corrected in Figure 69 as discussed above. Further, although the Examiner is correct that the specification fails to provide line numbers, such numbering is optional as set forth in MPEP § 608.01. Accordingly, Applicants believe this objection has been overcome.

Claims 17-22 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. The Examiner contends claim 17 is directed to both an apparatus and method steps of using that apparatus. However, the claim simply recites a change in the function of the apparatus upon the occurrence of a specified event. Such a recitation is not a method step, but rather is simply a function of the apparatus. As such, Applicants believe this objection is improper and should be withdrawn. For comparison, please note that new claim 57 is a method claim corresponding to canceled claim 14.

Claims 5-7, 10, 14, and 17-22 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Claims 5 and 7 have been amended to provide definite limitations with sufficient antecedent basis in accordance with each of the Examiner's comments. Claim 14 has been canceled. Accordingly, Applicants believe this objection has been overcome.

Claims 1–8, 10, and 16–17 were rejected under 35 U.S.C. § 102(b) as being anticipated by Schneier et. al. (U.S. Patent 5,768,382). Claims 9 and 11 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Schneier. Claims 12-15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Schneier in view of Christiano (U.S. Patent 5,671,412). Claims 18-22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Schneier in view of Castor et al. (U.S. Patent 5,590,288). In response, independent claims 1 and 17 have been amended to include the limitations of canceled dependent claims 12 and 13. As noted by the Examiner, “Schneier does not explicitly disclose determining a mode based on a handling policy and creating log data.” (Office Action page 12) Rather, the Examiner relies on Christiano to meet the present invention’s “usage control status data” and “purchase mode” limitations.

However, a distinguishing characteristic of the present invention is “after determining the purchase mode, said arithmetic processing circuit creates usage control status data in accordance with the determined purchase mode, and controls the use of the content data based on the usage control status data.” The purchase modes are “sell through” in which no restriction is imposed on playback operation by the purchaser and copying for the use of the purchaser, “time limited” in which the period of use is restricted, “pay per play” in which charging incurs every time the content is played back, “pay per SCMS” in which charging incurs every time the copied content is played back in a SCMS device, “sell through SCMS copy” in which copying in a SCMS device is allowed, and “pay per copy N without copy guard” in which charging incurs every time the content is played back without setting a copy guard. (Specification page 101, lines 2-12) And the usage control status data is “created when the user determines the purchase mode of the

content, and is thereafter used for controlling so that the purchaser uses the content within the allowance of the determined purchase mode.” (Specification page 101, lines 13-16)

By contrast, Christiano discloses “the designated product” or “requested product” is a program, package, or other licensed product for which a license is being requested. Other information can also be included in the license request, such as an identification of the computer system 12 which is sending the request (as in a node-locked policy). The time or number of activations which have already been used on the designated program (in a metered policy) and the physical or organizational location of the client computer system (in a site license policy) can also be provided in the license request. In the described embodiment, a concurrent usage license policy is implemented that provides a predetermined number of licenses for computer systems on the network, so that the minimum information in the license request is the identification or name of the designated product for which a license is requested. (Column 10, lines 31-46) Hence, Christiano fails to disclose an equivalent to the purchase modes recited in the present claims. Accordingly, Schneier and Christiano fail to obviate the present invention, and the rejected claims should now be allowed.

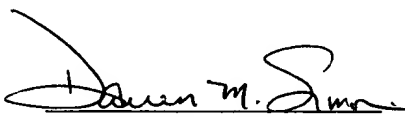
Claims 18-22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Schneier in view of Castor et al. (U.S. Patent 5,590,288). However, Castor is relied upon solely to meet limitations in the dependent claims. However, since the rejected dependent claims inherit the limitations of independent claim 17, the rejection based on the additional reference to Howard should be withdrawn in view of the foregoing discussion.

In view of the foregoing amendment and remarks, it is respectfully submitted that the application as now presented is in condition for allowance. Early and favorable reconsideration of the application are respectfully requested.

No additional fees are deemed to be required for the filing of this amendment, but if such are, the Examiner is hereby authorized to charge any insufficient fees or credit any overpayment associated with the above-identified application to Deposit Account No. 50-0320.

If any issues remain, or if the Examiner has any further suggestions, he/she is invited to call the undersigned at the telephone number provided below. The Examiner's consideration of this matter is gratefully acknowledged.

Respectfully submitted,
FROMMER LAWRENCE & HAUG LLP

By: 
Darren M. Simon
Reg. No. 47,946
(212) 588-0800